



HUMAN RIGHTS,
DEMOCRACY
AND THE RULE OF LAW

COUNCIL OF EUROPE



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DROITS DE L'HOMME,
DÉMOCRATIE
ET ÉTAT DE DROIT

Programme européen de formation aux droits de l'homme pour les professionnels du droit (HELP)

HELP SUD DE LA MEDITERRANEE

❑ Qu'est-ce que HELP?



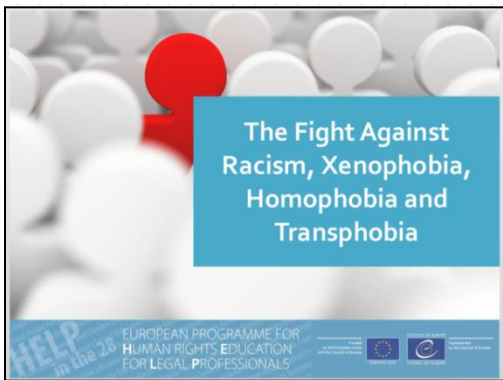
❑ Cours HELP sur la lutte contre la traite d'êtres humains



❑ Cours HELP sur la protection des données et la vie privée



Cours HELP



The Fight Against
Racism, Xenophobia,
Homophobia and
Transphobia

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FOR LEGAL PROFESSIONALS



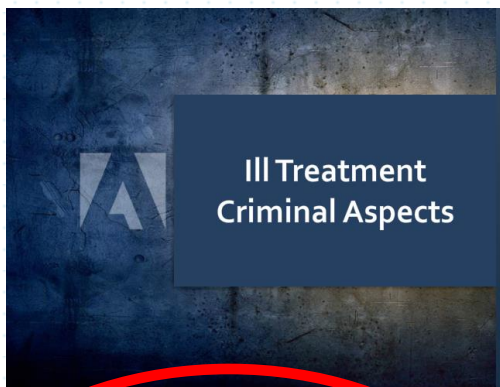
Data Protection and
Privacy

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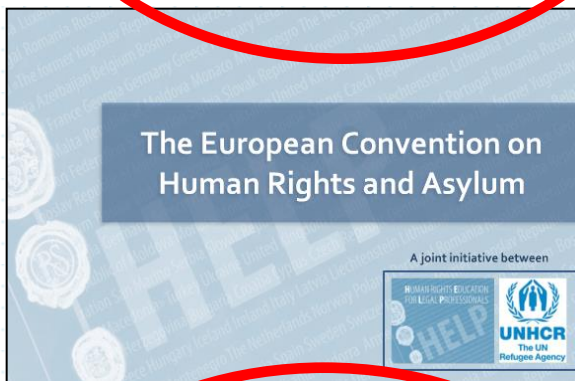


Labour Rights as
Human Rights

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Ill Treatment
Criminal Aspects

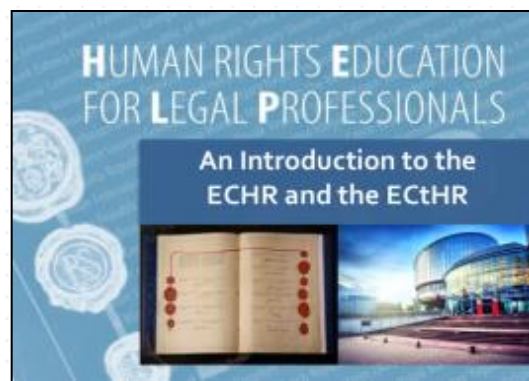


The European Convention on
Human Rights and Asylum

A joint initiative between

HUMAN RIGHTS EDUCATION
FOR LEGAL PROFESSIONALS

UNHCR
The UN
Refugee Agency



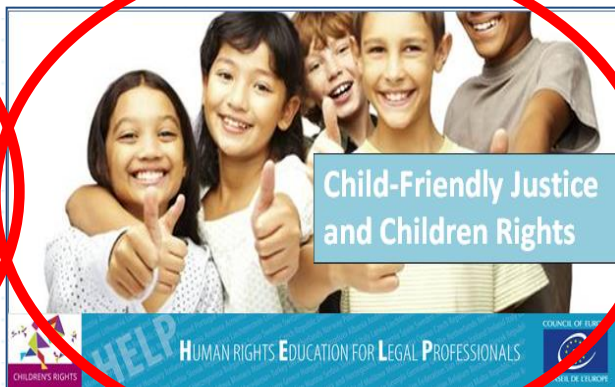
HUMAN RIGHTS EDUCATION
FOR LEGAL PROFESSIONALS

An Introduction to the
ECHR and the ECtHR



Combating
Trafficking in
Human Beings

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Child-Friendly Justice
and Children Rights

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CHILDREN'S RIGHTS

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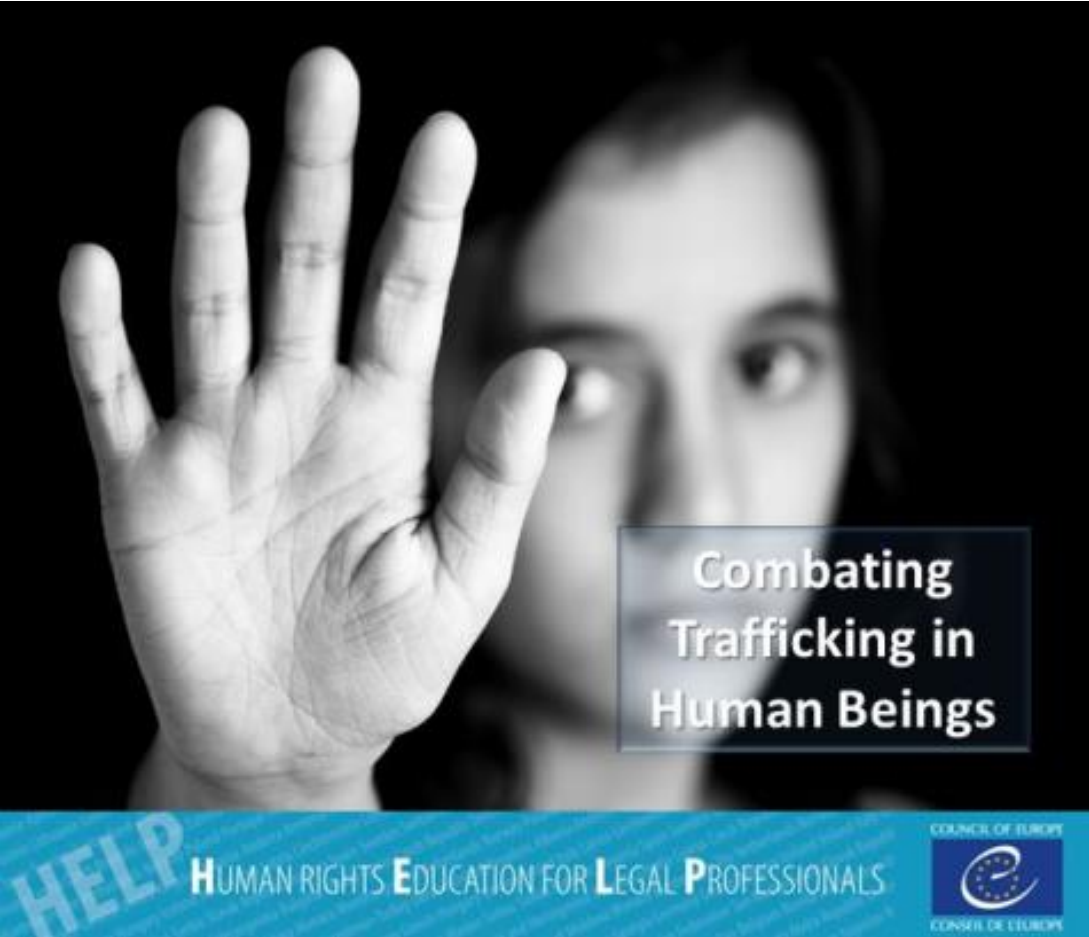


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CONVENTION ON
PREVENTING AND
COMBATING VIOLENCE
AGAINST WOMEN
AND DOMESTIC
VIOLENCE

Istanbul
Convention



Cours HELP sur la lutte contre la traite d'êtres humains



Cours HELP sur la lutte contre la traite d'êtres humains

Structure:

1. Introduction et cadre juridique
2. Définition et concepts légaux
3. Identification des victimes de la traite
4. Assistance aux victimes de la traite
5. Le principe de non-punition
6. Enquêtes, poursuites et droits des victimes
7. Condamnation
8. Indemnisation des victimes de la traite
9. Retour et rapatriement



Cours HELP sur la lutte contre la traite d'êtres humains



*Cliquer sur la photo
pour regarder la
vidéo de
présentation!*

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Cours sur la lutte contre la traite

OBJECTIFS

- **Connaissance**
 - Le système juridique européen de protection
 - La jurisprudence (CrEDH, CJUE)
- **Compétences et attitudes: applicable dans votre travail quotidien**



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Human Trafficking Legal Training

Legal framework

The legal framework for providing assistance to victims of trafficking in human beings is provided in different international legal documents.

Review each of the bodies below and then Click 'Next' to continue.

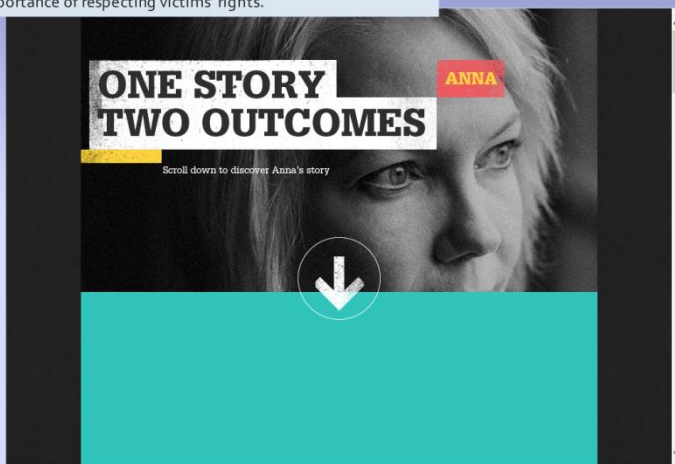




Respect trafficked people's rights

The [La Strada International campaign](#) below illustrates the importance of respecting victims' rights.



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Vidéos du cours

La Strada video

This video was produced by La Strada International within the framework of the COMP.ACT project that works to improve access to justice and guarantee compensation for trafficked people. The video presents several interviews with international anti-trafficking stakeholders who explain the importance of compensation and the obstacles that prevent those trafficked from accessing compensation. The video presents the tools developed by COMP.ACT to bring about systematic and practical changes to ensure that those trafficked in Europe receive compensation for their suffering and unpaid labour.

Review the video by clicking on the image below and then click 'Next' to continue.



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Cours sur la lutte contre la traite – ‘Module exemple’

Assistance for victims of trafficking in human beings

Learning objectives

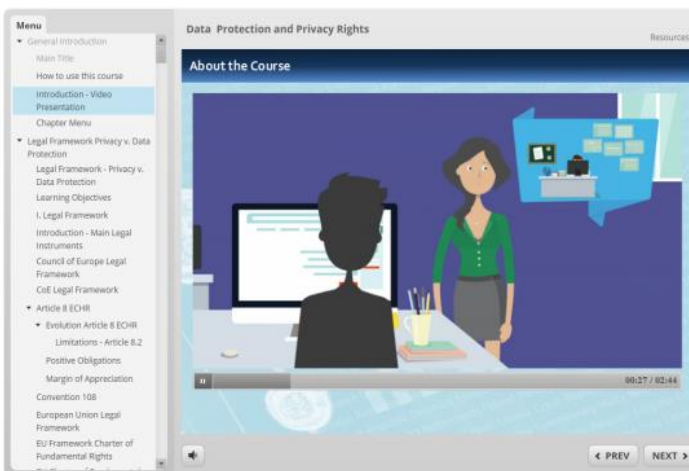
At the end of this module you will be able to:

- list and explain the rights of victims to assistance and support and the related State obligations
- demonstrate an understanding of the effects of trauma and victimisation on the physical and mental health of victims and list some typical reactions and behaviours of victims
- describe the minimum standards of care that States are responsible to provide to victims
- explain the importance of the right to a recovery and reflection period and describe the rules for its application
- list and explain the minimum conditions to grant a temporary residence permit to victims of trafficking

Click 'Next' to continue



Cours HELP sur la Protection des données et le droit à la vie privée



Cliquez sur l'image pour la présentation du cours!

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Cours HELP sur la Protection des données et le droit à la vie privée

Connaissances de base:

- Cadre juridique
- Rôle des institutions européennes
- Concepts, principes et règles

Domaines problématiques:

- Santé
- Médias
- Communication et marketing numériques
- Nouvelles technologies
- Surveillance du lieu de travail

Exécution:

- Recours et **exécution** (droit administratif, pénal et civil)
- **Flux de données transfrontières**



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Cours sur la Protection des données et le droit à la vie privée



CoE legal framework - ECHR

The [European Convention on Human Rights \(ECHR\)](#) was adopted in 1950 and entered into force in 1953. 47 countries are now parties to the Convention, including all the EU Member States. The ECHR is considered to provide the most effective individual protection against human right violations in Europe, mainly due to the establishment of the [European Court of Human Rights \(ECtHR\)](#). Before discussing Article 8 of the ECHR - which guarantees the right to respect for private and family life, home and correspondence- please find below some basic information on the ECHR and the ECtHR.

ECHR and Domestic Systems Role of the ECtHR E-learning course on the ECHR and ECtHR

EU Charter of Fundamental Rights

The relation between Articles 7 and 8 of the EU Charter

Unlike the ECHR, the EU Charter not only guarantees the respect for private and family life (Article 7), but also establishes the right to data protection (Article 8), explicitly raising the level of this protection to that of a fundamental right in EU law.

Formulated several years after the Data Protection Directive, Article 8 of the Charter must be understood as embodying pre-existing EU data protection law.

See the section "Privacy v. data protection" for more information about the relation between the right to privacy and the right to protection of personal data.

EU legal framework - EU Charter of Fundamental Rights

In 2000 the EU proclaimed the [Charter of Fundamental Rights of the European Union](#) (the Charter). The Charter incorporates the whole range of civil, political, economic and social rights of European citizens, by synthesising the constitutional traditions and international obligations common to the Member States. The Charter became legally binding as EU primary law in 2009. EU institutions as well as Member States, when implementing EU law, must observe and guarantee rights included in the Charter (Article 51 of the Charter).

The rights to private and family life and data protection are protected by the following provisions of the Charter:

Article 7 Article 8

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Cours PDVP – exemples de cas

Evolution Article 8- ECHR

Article 8.1 sets out the precise rights which are to be guaranteed to an individual by the State - the right to respect for private life, family life, home and correspondence. The ECtHR has not yet offered a clear and precise definition of what is meant by "private life". According to the ECtHR the concept of private life is clearly wider than the right to privacy and it concerns a sphere within which everyone can freely pursue the development and fulfilment of his personality.

The scope of Article 8 continues to evolve in the jurisprudence of the ECtHR in line with the nature of the ECHR as a living instrument which requires that it should be interpreted in light of the changing social, legal or technological conditions in order to be practical and effective ([Tyrer v. UK](#)). The ECtHR has given Article 8 a very broad interpretation in its jurisprudence.

Examples

So far the ECtHR has accepted that Article 8 covers for example: mere storage of information about an individual's private life ([Leander v. Sweden](#)), surveillance and interception of phone and mail communications ([Klass v. Germany](#)), surveillance in the workplace ([Copland v. UK](#)), use of CCTV ([Peck v. UK](#)), protection of one's image ([Von Hannover v. Germany 2](#)) and reputation ([Pfeifer v. Austria](#)). Moreover not only does Article 8 encompass a sphere within which every individual can freely develop and fulfil his or her personality but also extends to the possibility of developing relationships with others and with the outside world ([Niemietz v. Germany](#)).

ECtHR and CJEU JURISPRUDENCE

ECtHR

Example: Lack of pressing social need to protect public health

[Avilkina and Others v. Russia](#)

Facts

The applicants were a religious organisation, the Administrative Centre of Jehovah's Witnesses in Russia, and three Jehovah's Witnesses. They complained in particular about the disclosure of their medical files to the Russian prosecution authorities following their refusal to have blood transfusions during their stay in public hospitals.

Judgment

The ECtHR held that there had been a violation of Article 8 (right to respect for private and family life) of the Convention. It notably found that there had been no *pressing social need* to disclose confidential medical information on them. Furthermore, the means employed by the prosecutor in conducting the inquiry, involving disclosure of confidential information without any prior warning or opportunity to object, need not have been so oppressive for the applicants. Therefore the authorities had made no effort to strike a fair balance between, on the one hand, the applicants' right to respect for their private lives and, on the other, the prosecutor's aim of protecting public health.



Data Protection Directive's application to video surveillance

The Data Protection Directive applies to the processing of personal data, including image and sound data by means of **Closed Circuit Television (CCTV)** and other video surveillance systems, wholly or partly by automatic means, and to the processing otherwise than by automatic means of personal data which form part of a filing system or are intended to form part of a filing system.

The CJEU has also concluded that video surveillance involving the recording and storage of personal data falls within the scope of the Data Protection Directive, since it constitutes automatic data processing (see judgment [František Ryneš v Úřad pro ochranu osobních údajů](#) - this case will be discussed further in the next slide).

There are two important exceptions to the application of the Directive that concern video surveillance: the information collected by means of video surveillance concerns identified and/or identifiable persons, who have been filmed as they moved in public and/or publicly accessible premises.

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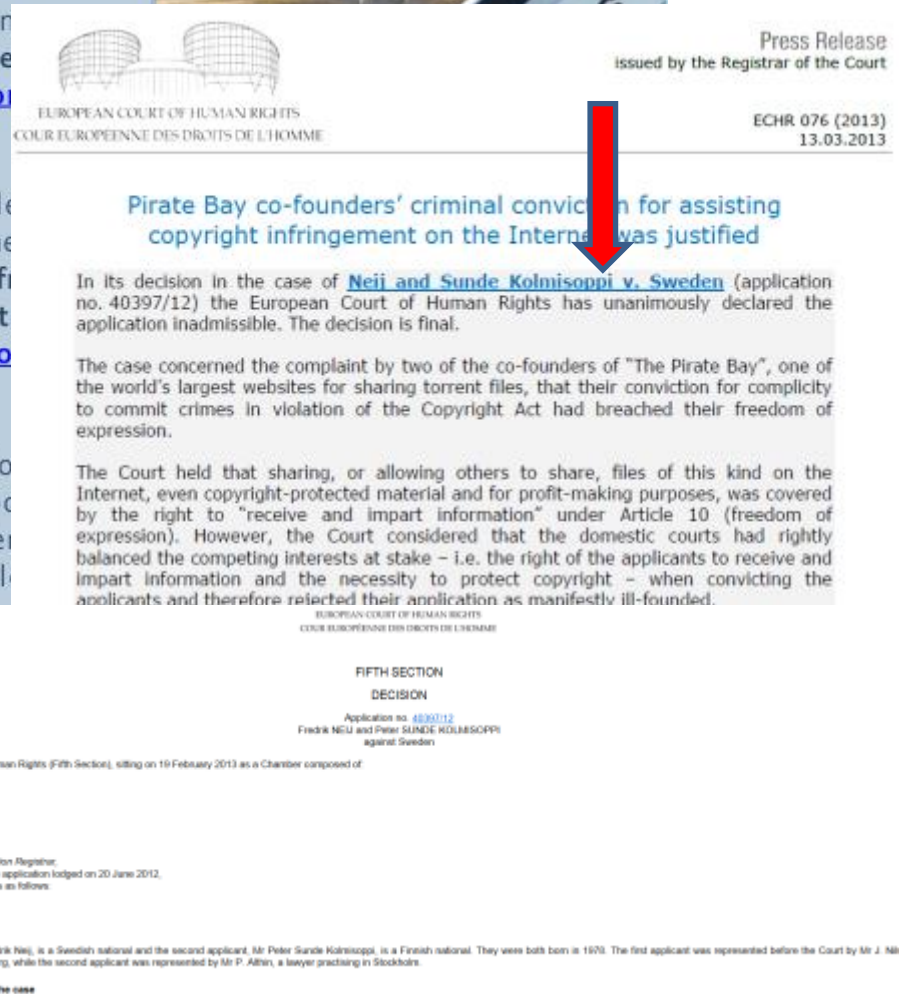
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Cours PDVP – exemples de cas

II. Challenges related to online media

- Internet plays an important role for the exercise of the freedom of expression. From the ECtHR case law it emerges that **Article 10 of the ECHR applies equally to offline and online media** ([Times Newspapers v. United Kingdom and 2](#)).
- At the same time, on many occasions the ECtHR underlines that it recognises the specific character of the Internet communication and that the **existing principles on freedom of expression should be adjusted to the special features of this medium**, such as its anonymous character ([Editorial Board of Pravoye Delo and Shtekel v. Ukraine](#)).
- Moreover the ECtHR stressed the need for the development of clear domestic legal framework delineating the boundaries of the roles and responsibilities of all key stakeholders in the field of new information and communication technologies ([Neij and Sunde Kolmisoppi v. Sweden](#)).

Click 'Next' to see specific problems related to cases resolved in European jurisprudence



Press Release
issued by the Registrar of the Court

ECHR 076 (2013)
13.03.2013

Pirate Bay co-founders' criminal conviction for assisting copyright infringement on the Internet was justified

In its decision in the case of [Neij and Sunde Kolmisoppi v. Sweden](#) (application no. 40397/12) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the complaint by two of the co-founders of "The Pirate Bay", one of the world's largest websites for sharing torrent files, that their conviction for complicity to commit crimes in violation of the Copyright Act had breached their freedom of expression.

The Court held that sharing, or allowing others to share, files of this kind on the Internet, even copyright-protected material and for profit-making purposes, was covered by the right to "receive and impart information" under Article 10 (freedom of expression). However, the Court considered that the domestic courts had rightly balanced the competing interests at stake – i.e. the right of the applicants to receive and impart information and the necessity to protect copyright – when convicting the applicants and therefore rejected their application as manifestly ill-founded.

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION
DECISION
Application no. 40397/12
Fredrik NEIJ and Peter SUNDE KOLMISOPPI
against Sweden

The European Court of Human Rights (Fifth Section), sitting on 10 February 2013 as a Chamber composed of:
Markus J. G. Villiger, President,
Angelika Nußberger,
Borjén M. Zupančič,
Ann Power-Foad,
Cristina Tănăsescu,
Helena Jäderblom,
Alvis Pajuste, judges,
and Claude Wenzel, Section Registrar.
Having regard to the above application lodged on 20 June 2012,
Having deliberated, decides as follows:

THE FACTS

The first applicant, Mr Fredrik Neij, is a Swedish national and the second applicant, Mr Peter Sunde Kolmisoppi, is a Finnish national. They were both born in 1970. The first applicant was represented before the Court by Mr J. Nilsson, a lawyer practising in Gothenburg, while the second applicant was represented by Mr P. Åberg, a lawyer practising in Stockholm.

A. The circumstances of the case

Cours PDVP – exemples de vidéos



Giovanni Buttarelli, the European Data Protection Supervisor



MAX SCHREMS
 ONLINE PRIVACY ACTIVIST
 EUROPE v FACEBOOK, AUSTRIA



Sophie Kwasny, Co-ordinator of the HELP project



NILS MUIŽNIEKS

HUMAN RIGHTS COMMISSIONER
 COMMISSAIRE AUX DROITS DE L'HOMME



LUIS LÓPEZ GUERRA
 JUDGE, EUROPEAN COURT OF HUMAN RIGHTS



JULIA LAFFRANQUE
 JUDGE, EUROPEAN COURT OF HUMAN RIGHTS

Click on the picture to hear ECtHR Judges

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Cours “PDVP – Exemple de module”

**PRIVACY,
DATA PROTECTION
AND
MEDIA**

EUROPEAN PROGRAMME FOR
HUMAN RIGHTS EDUCATION
FOR LEGAL PROFESSIONALS

HELP in the 28

By the European Union and the Council of Europe

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Cooperating with the Council of Europe

Freedom of expression (FoE) and media

One of the rights likely to come into conflict with the right to data protection is freedom of expression which is protected both by ECHR (Article 10) and the Charter of Fundamental Rights (Article 11). When such conflict occurs, courts must strike a balance in order to establish the pre-eminence of one right over the other.

Article 10, ECHR

Article 11, ChFR

II. Challenges related to online media

In this part you will find the key human rights standards in the area of online media, right to privacy and freedom of expression developed in the ECtHR and CJEU jurisprudences.

Go through all the sections by clicking 'Next' or review a specific problem by clicking on one of the buttons below.

- 1. Managing online newspapers' archives
- 2. Restrictions of access to media content via search engines
- 3. Liability for the third-party content

Personal data processing, freedom of expression and media

The right to data protection can sometimes interfere with other fundamental rights such as for example freedom of expression. The EU data protection legal framework contains certain provisions for the purpose of balancing those fundamental rights.

Click on the buttons below to find out more about these provisions.

JOURNALISTIC EXEMPTION

RIGHT TO BE FORGOTTEN

Cours “PDVP – résultats”

"HELP in the 28"

Eva Pastrana

Statement of accomplishment

Delivered in the framework of the European Programme
for **H**uman Rights **E**ducation for **L**egal **P**rofessionals **in the 28**

for having successfully completed the course
Data Protection and Privacy Rights

Please note the online offering of this course does not reflect the entire curriculum offered to participants enrolled in moderated courses by HELP-certified trainers organised in collaboration with national training institutions or bar associations.

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HELP

*Une bonne formation pour de bons
jugements*

Merci beaucoup pour votre attention

Eva.PASTRANA@coe.int